



**Billing Code: 3510-33-P**

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**15 CFR Part 748**

**[Docket No. 160303186-6186-01]**

**RIN 0694-AG91**

**Amendments to Existing Validated End-User Authorization in the People's Republic of China: Advanced Micro Devices, Inc.**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the existing Validated End-User (VEU) list for the People's Republic of China by updating the list of eligible items and destinations (facilities) for VEU Advanced Micro Devices, Inc. (AMD). Specifically, BIS amends Supplement No. 7 to part 748 of the EAR to remove an existing "eligible destination" (facility); add a building to an existing address at one of AMD's already approved facilities to which eligible items may be exported, reexported or transferred (in-country); and reflect the recent removal of an existing "eligible item" from the Commerce Control List (CCL).

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Chair, End-User Review Committee,  
Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security,  
U.S. Department of Commerce, Phone: 202-482-5991; Email: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Authorization Validated End-User*

Validated End-Users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEUs, as well as the dates they were so designated, and their respective eligible destinations (facilities) and items are identified in Supplement No. 7 to part 748 of the EAR. Under the terms described in that supplement, VEUs may obtain eligible items without an export license from BIS, in conformity with section 748.15 of the EAR. Eligible items vary between VEUs and may include commodities, software, and technology, except those controlled for missile technology or crime control reasons on the Commerce Control List (CCL) (part 774 of the EAR).

VEUs are reviewed and approved by the U.S. Government in accordance with the provisions of section 748.15 and Supplement Nos. 8 and 9 to part 748 of the EAR. The End-User Review Committee (ERC), composed of representatives from the Departments of State, Defense, Energy, Commerce, and other agencies as appropriate, is responsible for administering the VEU program. BIS amended the EAR in a final rule published on June 19, 2007 (72 FR 33646), to create Authorization VEU.

**Amendments to Existing VEU Authorization for Advanced Micro Devices, Inc. (AMD)  
in the People's Republic of China**

*Revision to the List of "Eligible Destinations" and "Eligible Items" for AMD*

In this final rule, BIS amends Supplement No. 7 to part 748 to revise AMD's VEU authorization. Specifically, in this rule BIS removes one of AMD's existing eligible destinations (facilities). Also, in this rule, BIS adds a building to an existing address at one of AMD's facilities already approved under Authorization VEU, to which the company's eligible items may be exported, reexported or transferred (in-country) in the People's Republic of China (PRC) under the authorization. Finally, in this rule, BIS removes Export Control Classification Number (ECCN) 4D002 from the list of AMD's eligible items to reflect the removal of that item from the CCL by 80 FR 29432 (May 21, 2015). The amendments to the eligible destinations (facilities) are in response to a request from AMD, while the amendment to the eligible items list reflects the recent removal of that ECCN from the CCL. All amendments were approved by the ERC. The revisions are as follows:

*Removal of AMD's Eligible Destination (Facility)*

AMD Technologies (China) Co., Ltd.

No. 88, Su Tong Road,

Suzhou, China 215021

*Revision and Update of Address for One of AMD's Eligible Destinations (Facilities)*

Current Address:

Advanced Micro Devices (Shanghai) Co., Ltd.

Buildings 46, 47, 48 & 49, River Front Harbor

Zhangjiang Hi-Tech Park

1387 Zhangdong Rd.

Pudong, Shanghai, China 201203

New Address:

Advanced Micro Devices (Shanghai) Co., Ltd.

Buildings 33 (Unit 1), 46, 47, 48 & 49, River Front Harbor

Zhangjiang Hi-Tech Park

No. 1387 Zhang Dong Road

Pudong District, Shanghai, China 201203

*Removal of AMD's Eligible Item: ECCN 4D002*

With this revision, AMD's "Eligible Items" are as follows:

3D002, 3D003, 3E001 (limited to "technology" for items classified under 3C002 and 3C004 and "technology" for use during the International Technology Roadmap for Semiconductors (ITRS) process for items classified under ECCNs 3B001 and 3B002), 3E002 (limited to "technology" for use during the ITRS process for items classified under ECCNs 3B001 and 3B002), 3E003.e (limited to the "development" and "production" of integrated circuits for commercial applications), 4D001 and 4E001 (limited to the "development" of products under ECCN 4A003).

## **Export Administration Act**

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

## **Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, which carries an estimated burden of 30 minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated

with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694–0088 are not expected to increase significantly as a result of this rule.

Notwithstanding any other provisions of law, no person is required to respond to, nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because they are unnecessary. In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313 (July 6, 2006) (proposed rule), and 72 FR 33646 (June 19, 2007) (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy. In publishing this final rule, BIS amends the authorization for an existing eligible VEU to remove an eligible destination (facility), revise an existing eligible destination (facility) to add a building, and remove an eligible item no longer listed on the CCL. These changes have been made within the established regulatory framework of the VEU program.

Further, this rule does not abridge the rights of the public or eliminate the public's option to export under any of the forms of authorization set forth in the EAR.

Publication of this rule in other than final form is unnecessary because the authorizations granted in the rule are consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. In addition, as with license applications, VEU authorization applications contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such applications. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as license applications are reviewed through an interagency review process, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and the measurement of such information against the VEU authorization criteria. Given the nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEUs were developed with public comments, allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the Federal Register. However, BIS finds good cause to waive the 30-day delay in effectiveness for this rule pursuant to 5 U.S.C. 553(d)(3) because the delay would be contrary to the public interest. BIS is simply amending

the authorization of an existing VEU by removing an existing eligible destination (facility), revising the address of another eligible destination (facility) to add a building, and removing an eligible item no longer listed on the CCL. BIS amends the EAR in this rule consistent with established objectives and parameters administered and enforced by the responsible designated departmental representatives to the End-User Review Committee. Delaying this action's effectiveness would likely cause confusion regarding which items are authorized by the U.S. Government and in turn stifle the purpose of the VEU Program. Accordingly, it is contrary to the public interest to delay this rule's effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

#### **List of Subjects in 15 CFR Part 748**

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, part 748 of the EAR (15 CFR parts 730–774) is amended as follows:

#### **PART 748—[AMENDED]**



1. The authority citation for part 748 continues to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015).

2. Amend Supplement No. 7 to part 748 by revising the entry for “Advanced Micro Devices China, Inc.” in “China (People’s Republic of)” to read as follows:

**SUPPLEMENT NO. 7 TO PART 748 - AUTHORIZATION VALIDATED END-USER (VEU): LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS**

<b>Country</b>	<b>Validated End-User</b>	<b>Eligible Items (By ECCN)</b>	<b>Eligible Destination</b>	<b>Federal Register Citation</b>
Nothing in this Supplement shall be deemed to supersede other provisions in the EAR, including but not limited to § 748.15(c).				
<b>China (People's Republic of)</b>	Advanced Micro Devices China, Inc.	3D002, 3D003, 3E001 (limited to “technology” for items classified under 3C002 and 3C004 and “technology” for use during the International Technology Roadmap for Semiconductors (ITRS) process for items classified under ECCNs 3B001 and 3B002), 3E002 (limited to “technology” for use during the ITRS process for items classified under ECCNs 3B001 and 3B002), 3E003.e (limited to the “development” and “production” of integrated circuits for commercial applications), 4D001 and 4E001 (limited to the “development” of products under ECCN 4A003).	Advanced Micro Devices (Shanghai) Co., Ltd. Buildings 33 (Unit 1), 46, 47, 48 & 49, River Front Harbor Zhangjiang Hi-Tech Park No. 1387 Zhang Dong Road Pudong District, Shanghai, China 201203	75 FR 25763, 5/10/10. 76 FR 2802, 1/18/11. 78 FR 3319, 1/16/13. 81 FR [INSERT PAGE NUMBER], [INSERT DATE OF PUBLICATI ON]
			AMD Technology Development (Beijing) Co., Ltd. North and South Buildings RaycomInfotech, Park Tower C, No. 2 Science Institute South Rd., Zhong Guan Cun, Haidian District, Beijing, China 100190	

<b>Country</b>	<b>Validated End-User</b>	<b>Eligible Items (By ECCN)</b>	<b>Eligible Destination</b>	<b>Federal Register Citation</b>
Nothing in this Supplement shall be deemed to supersede other provisions in the EAR, including but not limited to § 748.15(c).				
			AMD Products (China) Co. Ltd. North and South Buildings RaycomInfotech Park Tower C, No. 2 Science Institute South Rd., Zhong Guan Cun, Haidian District, Beijing, China 100190	
* * * * *				

DATED: June 17, 2016

Matthew S. Borman

Deputy Assistant Secretary for Export Administration

[FR Doc. 2016-14902 Filed: 6/22/2016 8:45 am; Publication Date: 6/23/2016]